

## Page 1 of 2

**RESPONDENT NAME: NORMAN BARNETT DBA VILLA UTILITIES**

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p> <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review         </p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> February 18, 2008 and June 2, 2008</p> <p><b>Date of NOE Relating to this Case:</b> June 3, 2008</p> <p><b>Background Facts:</b>            The EDPRP was filed May 4, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on May 6, 2009, as evidenced by the signature on the card. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.         </p> <p><b>Current Compliance Status:</b>            The Respondent has not yet submitted documentation to certify compliance with the technical requirements.         </p> <p><b>PWS:</b>            Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year [30 TEX. ADMIN. CODE §§ 290.271(b), 290.274(a) and 290.274(c)].         </p>	<p><b>Total Assessed:</b> \$614</p> <p><b>Total Deferred:</b> \$0</p> <p> <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset         </p> <p><b>Total Due to General Revenue:</b> \$614</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification</b> N/A</p> <p><b>Person Compliance History Classification</b> N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provision(s):</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 30 days, mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2007 to each bill paying customer, and make a good faith effort to deliver to non-bill paying customers.</li> <li>2. Within 45 days, submit to the Commission a copy of the CCR provided to customers of the water system and the certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data.</li> <li>3. Within 60 days, submit written certification to demonstrate compliance with Ordering Provision Nos. 1 and 2.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	15-Sep-2008	<b>Screening</b>	30-Sep-2008	<b>EPA Due</b>	14-Nov-2008
	<b>PCW</b>	11-Mar-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Norman Barnett dba Villa Utilities
<b>Reg. Ent. Ref. No.</b>	RN102675550
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>	
<b>Enf./Case ID No.</b>	36618
<b>Docket No.</b>	2008-1620-PWS-E
<b>Media Program(s)</b>	Public Water Supply
<b>Multi-Media</b>	
<b>No. of Violations</b>	1
<b>Order Type</b>	1660
<b>Government/Non-Profit</b>	No
<b>Enf. Coordinator</b>	Amanda Henry
<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50
<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$300
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	29.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$87
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**Notes** The penalty enhancement is due to two prior Notices of Violation ("NOVs") containing violations that are dissimilar in the current enforcement action, and one final enforcement order without a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$227  
Approx. Cost of Compliance \$198  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$387
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	58.7%	<b>Adjustment</b>	\$227
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Penalty enhancement recommended for the recovery of avoided costs of compliance.

<b>Final Penalty Amount</b>	\$614
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$614
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$614
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Screening Date 30-Sep-2008

Docket No. 2008-1620-PWS-E

PCW

Respondent Norman Barnett dba Villa Utilities

Policy Revision 2 (September 2002)

Case ID No. 36618

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102675550

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 29%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The penalty enhancement is due to two prior Notices of Violation ("NOVs") containing violations that are dissimilar in the current enforcement action, and one final enforcement order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 29%

<b>Screening Date</b> 30-Sep-2008		<b>Docket No.</b> 2008-1620-PWS-E		<b>PCW</b>	
<b>Respondent</b> Norman Barnett dba Villa Utilities		<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36618		<i>PCW Revision June 12, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN102675550					
<b>Media [Statute]</b> Public Water Supply					
<b>Enf. Coordinator</b> Amanda Henry					
<b>Violation Number</b>	<input type="text" value="1"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 290.271(b), 290.274(a) and 290.274(c)				
<b>Violation Description</b>	<p>Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year. Specifically, the Respondent did not mail or directly deliver the CCRs to the water system's customers for the years 2004 through 2006 nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2004 through 2006.</p>				
<b>Base Penalty</b>					<input type="text" value="\$1,000"/>

**>> Environmental, Property and Human Health Matrix**

		Harm			
		Major	Moderate	Minor	
OR	Release				
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

<b>Number of Violation Events</b>	<input type="text" value="3"/>	<input type="text" value="1095"/>	<b>Number of violation days</b>
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mark only one with an x	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$300"/>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text" value="x"/>	
	single event	<input type="text"/>	

Three annual events are recommended for the three years during which no CCR or certification of delivery was submitted to the TCEQ.

**Good Faith Efforts to Comply**

<b>0.0% Reduction</b>		<input type="text" value="\$0"/>
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

**Notes**

The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

<b>Estimated EB Amount</b>	<input type="text" value="\$227"/>	<b>Statutory Limit Test</b>	<input type="text" value="\$614"/>
<b>Violation Final Penalty Total</b>		<input type="text" value="\$614"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$614"/>	

## Economic Benefit Worksheet

Respondent Norman Barnett dba Villa Utilities

Case ID No. 36618

Reg. Ent. Reference No. RN102675550

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$198	1-Jul-2005	1-Jul-2007	2.92	\$29	\$198	\$227
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the water supply, calculated for the years in which no report was distributed.

Approx. Cost of Compliance

\$198

TOTAL

\$227

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601358443 BARNETT, NORMAN Classification: Rating:  
Regulated Entity: RN102675550 VILLA UTILITIES Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1011183  
WATER LICENSING LICENSE 1011183  
Location: 6423 LEMOINE LANE  
CHANNELVIEW, HARRIS COUNTY, TX  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: October 07, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 07, 2003 to October 07, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Amanda Henry Phone: 713-767-3672

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/02/2003

ADMINORDER 1999-1093-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(h)(1)(B)

Description: Failure to submit quarterly water quality parameter reports as specified.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(j)(3)

Description: Failure to submit corrosion control study within 2 yrs of the end of the first exceedance sampling period.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(i)(1)

Description: Failure to comply with public education requirements within 60 days of notification by the commission that the water system exceeded the lead action level.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter E 290.51

Description: Failed to pay all required Public Health Service fees, together with associated penalties and interest, for Account No. 91011183.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)

Description: Failed to collect and submit samples for lead and copper analysis for the period from July 1 to December 31, 2000.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 03/15/2007 (644246)
- 2 06/01/2007 (644760)
- 3 08/29/2008 (688673)
- 4 09/23/2008 (686968)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/15/2007 (644246)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)  
 Description: BACT - MONITORING/REPORTING VIOLATIONS

Date: 09/25/2008 (686968)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)  
 Description: Failure to provide a planning report after exceeding 85% of well production capacity.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to properly maintain the regulated entity by not properly preparing and painting the exterior of the pressure tank.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
 Description: Failure to make available sanitary control easements for the well at the time of inspection.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
 Description: Failure to maintain all water related appurtenances in a watertight condition. In this connection, the leak off the valve on top of the well casing must be repaired or replaced as necessary.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)  
 Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine as per agency regulations.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)  
 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to properly maintain the regulated entity by not up keeping the three strands of barbed wire at the top of the fence.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)  
 Description: Failure by the community system to post a legible sign at the production, treatment, and storage facility.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(2)  
 Description: Failure to provide the pressure tank with an easily readable pressure gauge.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)  
 Description: Failure to perform at least once every seven days chlorine residual tests on water collected from various locations within the distribution system.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)  
 Description: Failure to inspect the pressure tank annually and the interior of the pressure tank every five years.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)  
 Description: Failure to properly screen the well casing vent with 16-mesh or finer corrosion-resistant screening material.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(b)(1)(A)  
 Description: Failure by the regulated entity to develop and maintain an up-to-date system monitoring plan.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
NORMAN BARNETT  
DBA VILLA UTILITIES,  
RN102675550**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2008-1620-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Norman Barnett dba Villa Utilities ("Mr. Barnett").

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Mr. Barnett owns and operates a public water system located at 6423 Lemoine Lane, Channelview, Harris County, Texas (the "Facility").
2. The Facility provides water for human consumption, has thirty-two service connections and serves at least 25 people per day at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63).
3. During an inspection on February 18, 2008 and on June 2, 2008, TCEQ Central Office staff documented that Mr. Barnett violated 30 TEX. ADMIN. CODE §§ 290.271(b), 290.274(a), and 290.274(c) by failing to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year. Specifically, Mr. Barnett did not mail or directly deliver the CCR to the water system's customers for the years 2004 through 2006 nor

did Mr. Barnett submit the CCR or the required certification to the TCEQ for the years 2004 through 2006.

4. Mr. Barnett received notice of the violation on or about June 8, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Norman Barnett dba Villa Utilities" (the "EDPRP") in the TCEQ Chief Clerk's office on May 4, 2009.
6. By letter dated May 4, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Barnett with notice of the EDPRP. According to the return receipt "green card", Mr. Barnett received notice of the EDPRP on May 6, 2009, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Barnett received notice of the EDPRP, provided by the Executive Director. Mr. Barnett failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Barnett is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Barnett failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data to the TCEQ by July 1 of each year in violation of 30 TEX. ADMIN. CODE §§ 290.271(b), 290.274(a), and 290.274(c).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Barnett with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Mr. Barnett failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the

Commission may enter a Default Order against Mr. Barrett and assess the penalty recommended by the Executive Director.

5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Mr. Barnett for violations of the Texas Water Code and the Texas Health and Safety Code, within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of six hundred fourteen dollars (\$614.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b).
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Barnett is assessed an administrative penalty in the amount of six hundred fourteen dollars (\$614.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and Mr. Barnett's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Norman Barnett dba Villa Utilities; Docket No. 2008-1620-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Mr. Barnett shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order, Mr. Barnett shall mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2007 to each bill paying customer, and make a good faith effort to deliver to non-bill paying customers, as required by 30 TEX. ADMIN. CODE §§ 209.271 and 290.274.
- b. Within 45 days after the effective date of this Order, Mr. Barnett shall submit to the Commission a copy of the CCR provided to customers of the water system and the certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274.

Public Drinking Water Section  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Order, Mr. Barnett shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Mr. Barnett shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Stephen Smith, Water Section Manager  
Texas Commission on Environmental Quality  
Houston Regional Office  
5425 Polk Avenue, Suite H  
Houston, Texas 77023

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Barnett. Mr. Barnett is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Barnett shall be made in writing to the Executive Director. Extensions are not effective until Mr. Barnett receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Barnett if the Executive Director determines that Mr. Barnett has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

## AFFIDAVIT OF SHARESIA Y. ALEXANDER

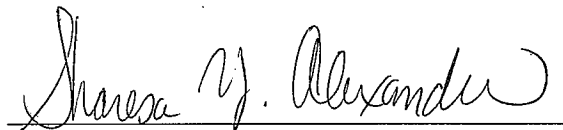
STATE OF TEXAS           §  
                                     §  
COUNTY OF TRAVIS       §

"My name is Sharesia Y. Alexander. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Norman Barnett dba Villa Utilities" (the "EDPRP") was filed with the Office of the Chief Clerk on May 4, 2009.

The EDPRP was sent to Mr. Barnett at his last known address on May 4, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card", Mr. Barnett received notice of the EDPRP on May 6, 2009, as evidenced by the signature on the card.

More than 20 days have elapsed since Mr. Barnett received notice of the EDPRP. Mr. Barnett failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference".



Sharesia Y. Alexander

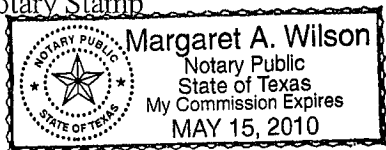
Attorney

Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Sharesa Y. Alexander, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 10<sup>th</sup> day of June, A.D., 2009.

Notary Stamp



Margaret Wilson  
Notary Signature